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MAR 29 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Implementation of Section 26 of the	)	MM Docket No. 93-21
Cable Television Consumer Protection	)	

SUMMARY

In its analysis of sports coverage and migration, it is crucial that the Commission recognize the fundamental differences between superstations and cable sports networks. Superstation sports programming represents only a fraction of the superstation's program schedule, and that programming is available to consumers at much more reasonable prices than cable sports networks. Unlike sports networks, superstation sports are subject to blackouts designed to protect local broadcasters and sports teams. Likewise, superstations do not compete with cable sports services or local broadcasters for local advertising revenue.

Although television coverage of professional sports has dramatically increased, superstations' portion of that coverage has declined. Further, the federal copyright law has essentially capped the growth of superstations. Thus, the impact of superstation carriage of sports programming upon sports migration is not escalating.

United Video hopes the Commission will recognize that superstations offer a unique and cost efficient means of providing sports programming to millions of consumers.

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Implementation of Section 26 of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 93-21
	)	
Inquiry into Sports Programming Migration	)	

COMMENTS OF UNITED VIDEO, INC.

In response to the Commission's Notice Of Inquiry, United Video is submitting these comments to address several key

In fulfilling the task Congress set before it, the FCC has done an admirable job of identifying and separating the major issues; we urge the Commission to focus on how each of these issues ultimately affects the consumer in terms of the actual availability and price of sporting events.

The superstations offered by United Video deliver two relevant types of sporting events -- professional baseball through the Major League Baseball (MLB) teams of the Chicago Cubs and Chicago White Sox, and professional basketball through the National Basketball Association (NBA) team the Chicago Bulls. Our comments will focus on consumer access to these two professional sports and the issues related to superstation delivery of these sports.

Terminology and Definitions

A superstation is typically referred to as an independent television broadcast station retransmitted by a satellite program vendor. There are currently nine independent broadcast stations - or superstations - being transmitted via satellite to consumers throughout the U.S., a number which has not increased in the past five years.

While all the satellite-delivered superstations are available nationally, most are carried only on a limited regional basis. WTBS (Atlanta), the most widely distributed superstation, is received in 65% of all television homes, and WGN (Chicago) is received in 33% of all television homes. The remainder of the satellite delivered superstations are received in 15% or less of all television households (see Attachment A). Consequently, our comments on the superstation delivery of sports will focus on the only two truly national superstations -- WGN and WTBS.

Reasons Superstations Are Not "Sports Networks"

In the Commission's analysis of sports migration, it is critical that a distinction is made between superstations and "sports networks". There are many factors which differentiate superstations from sports networks, the most relevant for this discussion are: costs to consumer; programming; federal restrictions; and advertising revenue.

(1) Superstation Cost to Consumers Is Less

In terms of availability to cable consumers, WTBS is carried in 90% of all cable homes, while WGN is carred in 53% of all cable homes. Regional sports networks collectively are carried by approximately 70% of all cable homes, and ESPN is in virtually 100% of all cable households.

Superstations are typically accessible to consumers at more reasonable prices than national and regional sports networks. In order to cover the expensive license fees charged by ESPN and many of the regional sports networks - due in large part to the exorbitant rights fees charged by professional sports leagues - many cable operators offer sports networks either alone or packaged with other cable networks on expanded tiers. As a result, consumers pay additional monthly charges of $.50 to $17.00 per channel in order to access sports programming on these sports networks.

The price and availability of sports to consumers, especially on regional sports networks, are constantly changing as operators experiment with a variety of pricing and packaging options to cover sizable monthly license fees. Many of the regional sports networks categorized as basic/tier networks in Attachment B are actually pay services.

For instance, Home Team Sports, which provides coverage of the Baltimore Orioles and the Washington Bullets, along with NHL and other sports coverage, will cost subscribers in the Baltimore, Maryland area an additional $16.74 monthly, over and above their $25.36 basic cable package. While carriage of regional sports networks varies by cable system, many are only offered at significant additional monthly charges.

Superstations, on the other hand, are nearly always available to cable subscribers on either lifeline/broadcast tiers or as part of the standard basic package. On this same cable system in Baltimore, WTBS and WWOR are availble to subscribers as part of the Limited Basic package for $6.99 monthly. In this case, sports on one regional sports network costs subscribers 139.0% more than the sports on two superstations and the other channels included in the Limited Basic package.

(2) Sports Programming -- Only A Small Part of Superstation Total Schedule

Much of this price differential can be explained because of the significant difference in the volume of sports coverage on superstations and regional or national sports networks. Unlike sports networks, sports coverage on superstations represents only a fraction of the station's program line-up. In 1992, superstation coverage of MLB and NBA games represented only 7.0% of superstations' annual program hours, and only 8% of all MLB and NBA televised games.

Consumers don't consider superstations sports networks - they watch superstations for the variety of program choices they offer, including movies, series, children's programming, talk shows, news, and community affairs. When citing the reasons they value superstations, consumers mention sports only after mentioning superstation alternative program choices (68%); programs/movies at alternate viewing times (58%); superstation movies (58%); and finally, sports on superstations (42%).

(3) Superstations are Subject to Blackouts

Unlike national and regional sports networks, superstation coverage of major league sports is subject to federally imposed regulations designed to protect local broadcasters and local sports teams. Sports blackout rules require cable systems within 35 miles of collegiate or professional games to black out "home" games carried back into the local market by the superstation if the game is not available on any broadcast stations locally. In addition, network nonduplication rules require cable systems to black out duplicating network programs - inculding sporting events - which are carried by broadcast stations from outside the local market.

National and regional sports networks are not subject to sports blackout or network nonduplication rules, which are imposed specifically to protect local broadcasters and local teams against competing sports coverage.

(4) Superstations Offer No Local Advertising

Finally, superstations do not provide local advertising time such as that offered by sports networks. Most cable services, including ESPN and the regional sports networks, offer cable operators two minutes per hour of local advertising time to sell to local advertisers. Cable operators use this advertising inventory to compete with local broadcasters for local ad revenue. Superstations do not compete with other sports networks or local broadcasters for local advertising dollars.

Superstations should not be confused with sports networks. Their coverage of professional sports is minimal, their programming line-up far more varied, their restrictions on sports coverage more stringent, and they are non-competitive with local broadcasters for advertising revenue.

Superstation Growth Has Slowed and Is Limited

Cable industry carriage of superstations also differs significantly from its carriage of networks and cable sports networks. Cable operators, through the Copyright Act of 1976, are required to pay copyright fees for the retransmission of broadcast stations. These copyright fees are calculated based on a percentage of the cable system's annual basic revenue. The number of distant broadcast stations the operator is permitted to carry varies by cable system size, location, and the presence of local independent broadcast stations. Carriage of distant stations in excess of the number "permitted signals" results in a penalty fee of 3.75% of the system's basic annual revenue for *each* such penalty station. Cable systems in the top 100 markets are allowed to carry two distant signals, and cable systems in smaller (below top 100) markets are allowed one or no distant signals.

Almost 84% of all cable homes receive two superstations or less (Attachment C). The copyright penalty structure clearly discourages extensive carriage of superstations, and in effect, limits the growth of current superstations, as well as the development and distribution of new superstations.

A historical perspective of superstation growth (Attachment A) clearly indicates the limiting effect of copyright rules; superstations launched after 1984 have minimal distribution nationwide, and there have been no new entrants to the superstation market since 1988, despite a substantial increase in the number of independent broadcast stations over the same time period.

Superstations' Portion of Professional Sports Coverage Is Declining

Television coverage of professional sports has dramatically increased over the past ten yeas, (Attachments D, E). Major League Baseball television coverage has increased by almost 1500 games since 1982, while NBA coverage has increased by over 1500 games in just a five year period.

Despite these increases in overall coverage, the superstation portion of that coverage has dramatically declined. While the number of superstation MLB games remains at just over 300, superstations' portion of MLB television coverage has been cut in half, from 22% in 1982 to 11% in 1992. Likewise, NBA superstation coverage has decreased 12% since 1986, from 75 to 50 games, while the superstation portion of NBA television coverage has declined from 11% in 1986 to a mere 4% in 1992.

Local network coverage of both MLB and NBA games has increased dramtically over this same time period, while national coverage has slightly declined. The vast majority of the increases in MLB and NBA television coverage can be attributed to local cable coverage (regional sports networks).

Although superstations remain an important component in major league sports television coverage, their portion of coverage continues to decline.

Finally, it should not be overlooked that superstations generate $45 to $50 million in annual revenue for major league sports from distant signal copyright fees and direct MLB superstation surcharges. Loss of this revenue stream obviously

Conclusion

Sports fans are disillusioned with professional sports. Ticket prices have skyrocketed, players' salaries are astronomical, and America's favorite pastimes have lost much of their patriotic appeal. Congress has responded to America's concern to provide access to sports at reasonable prices. In analyzing this complex issue, it is critical that the Commission understand the unique role of superstations in delivering sports programming to consumers.

Respectfully submitted,

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March 29, 1993

Attachment A

SUPERSTATION GROWTH IS SLOWING

Subscribers (MM)	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
WGN – 1978 (Chicago)													
SUBSCRIBERS	2.4	6	10	12	12	14	17	18.7	20.2	22.7	26	28.4	30.3
% TV HH	3.1%	7.3%	11.9%	14.3%	14.1%	16.2%	19.3%	21.0%	22.3%	24.7%	28.0%	30.9%	32.6%
WTBS - 1976 (Atlanta)*													
SUBSCRIBERS	10.6	20	25	29	33	36	39.3	42.5	47.9	52.1	56	57.5	60
% TV HH	13.6%	24.4%	29.8%	34.4%	38.7%	41.7%	44.7%	47.8%	53.0%	56.6%	60.2%	62.5%	64.5%
WWOR - 1979 (New York)													
SUBSCRIBERS	2.7	5	5	4	5	6	8.7	12	12.5	13.5	14	14	14.5
% TV HH	3.5%	6.1%	6.0%	4.8%	5.9%	7.0%	9.9%	13.5%	13.8%	14.7%	15.1%	15.2%	15.6%
WPIX - 1984 (New York)													
SUBSCRIBERS	–	–	–	–	0.13	0.73	0.88	1.1	1.5	1.4	1.3	1.6	1.4
% TV HH					0.2%	0.8%	1.0%	1.2%	1.7%	1.5%	1.4%	1.7%	1.5%
KTVT - 1984 (Dallas)													
SUBSCRIBERS	–	–	–	–	0.13	0.33	0.42	0.57	0.75	0.62	0.48	0.48	0.49
% TV HH					0.2%	0.4%	0.5%	0.6%	0.8%	0.7%	0.5%	0.5%	0.5%
KTLA - 1988 (L.A.)													
SUBSCRIBERS	–	–	–	–	–	–	–	–	N/A	0.4	0.44	0.63	0.63
% TV HH										0.4%	0.5%	0.7%	0.7%
WSBK - 1988 (Boston)													
SUBSCRIBERS	–	–	–	–	–	–	–	–	N/A	N/A	N/A	0.58	0.58
% TV HH												0.6%	0.6%
KTVU - 1988 (Oakland)													
SUBSCRIBERS	–	–	–	–	–	–	–	–	N/A	N/A	N/A	N/A	0.72
% TV HH													0.8%
KWGN - 1988 (Denver)													
SUBSCRIBERS	–	–	–	–	–	–	–	–	N/A	N/A	N/A	N/A	0.27
% TV HH													0.3%
TELEVISION HH	**78.1**	**82.0**	**83.8**	**84.2**	**85.3**	**86.3**	**87.9**	**89.0**	**90.4**	**92.0**	**93.0**	**92.0**	**93.0**
CABLE HH	**17.7**	**23.2**	**29.3**	**34.1**	**37.3**	**39.9**	**42.2**	**45**	**48.6**	**52.6**	**54.9**	**55.8**	**57.2**

SOURCES: Cable TV Programming, PKA, February 1993; Cable Television Developments, May 1992. Date shown indicates year launched on satellite.

*Note - WTBS subscribers include approximately 10-12 million non cable homes. WTBS cable penetration estimated at 90%.

Attachment B

MANY REGIONAL SPORTS NETWORKS ARE PAY SERVICES

NETWORK	SUBSCRIBERS (000)
Regional Pay Sports Channels	
PRISM (PA)	400
SportsChannel-NY	1,500
SportsChannel-NY Plus	1,700
New England Sports Network	340
SportsChannel-L.A.	150
SportsChannel-Pacific (N.Cal.)	550
Regional Total:	**4,640**
Pay-Per-View Networks	
Tigervision (LSU)	4
Portland Trailblazers	18
San Antonio Spurs	4
San Diego Sports	10
Midwest Sports Channel	n/a
Host Comm. (AL, Auburn, GA, KY, TN)	n/a
Hawkvision	n/a
Cincinnati Reds	10
ABC/SET	n/a
PPV Total:	**45**
Basic/Tier Networks	
Madison Square Garden (NY)	4,800
SportsChannel-NE	1,347
Arizona Sports Network (Phoenix)	317
Sportschannel-Chi. (IL, IN, LA)	2,195
Portland Trailblazers	325
Home Sports Ent. (AR, LA, OK, TX)	3,105
Pro Am Sports System (MI)	760
Home Team Sports (DC, DE, MD, NC, VA, WV)	2,382
Prime Ticket (AZ, CA, HI, NV)	4,300
KBL (Pittsburgh)	1,730
Prime Sports Intermountain West (Utah)	457
SportsChannel-Fla.	1,600
Sunshine Network (Florida)	2,949
Prime Sports Rocky Mtn (CO, KS, NE, NM, WY)	1,129
Prime Sports-NW (WA)	1,730
Midwest SportsChannel (MN, ND, SD, IA, WI)	917

Attachment C

86% OF ALL CABLE SUBSCRIBERS ARE IN SYSTEMS THAT CARRY 4 OR LESS

Attachment D

FROM 1982-1992 SUPERSTATIONS' PORTION OF MAJOR LEAGUE BASEBALL TELEVISION COVERAGE DROPPED FROM 18% TO 11%

NUMBER OF GAMES	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
NETWORK											
LOCAL TV	1074	1212	1197	1140	1219	1399	1400	1437	1407	1413	1316
% TOTAL	61%	56%	49%	51%	58%	53%	52%	52%	47%	46%	45%
NATIONAL TV	43	46	43	41	55	41	39	40	31	26	26
% TOTAL	2%	2%	2%	2%	3%	2%	1%	1%	1%	1%	1%
TOTAL NETWORK	**1117**	**1258**	**1240**	**1181**	**1274**	**1440**	**1439**	**1477**	**1438**	**1439**	**1342**
% TOTAL	64%	58%	51%	53%	61%	54%	53%	54%	48%	47%	46%
SUPERSTATIONS											
WGN	195	192	186	151	152	150	154	151	187	188	194
WTBS	117	154	150	154	144	150	134	124	109	124	125
TOTAL SUPERSTATIONS	**312**	**346**	**336**	**305**	**296**	**300**	**288**	**275**	**296**	**312**	**319**
%TOTAL	18%	16%	14%	14%	14%	11%	11%	10%	10%	10%	11%
CABLE											
LOCAL	328	558	856	739	525	914	966	1006	1097	1144	1105
% TOTAL	19%	26%	35%	33%	25%	34%	36%	36%	36%	37%	38%
NATIONAL	--	--	--	--	--	--	--	--	175	162	156
% TOTAL	--	--	--	--	--	--	--	--	6%	5%	5%
TOTAL CABLE	**328**	**558**	**856**	**739**	**525**	**914**	**966**	**1006**	**1272**	**1306**	**1261**
% TOTAL	19%	26%	35%	33%	25%	34%	36%	36%	42%	43%	43%
TOTAL GAMES	**1757**	**2162**	**2432**	**2225**	**2095**	**2654**	**2693**	**2758**	**3006**	**3057**	**2922**

Sources: Media Sports Business, PKA, March 1986, April 1992.

Note: Local network coverage excludes local coverage by WGN and WTBS.

Attachment E

FROM 1986-1993 SUPERSTATIONS' PORTION OF NATIONAL BASKETBALL ASSOCIATION TELEVISION COVERAGE DROPPED FROM 11% TO 4%

NUMBER OF GAMES	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93
NETWORK							
LOCAL TV*	19	39	747	687	727	689	635
% TOTAL	3%	5%	51%	42%	42%	40%	37%
NATIONAL TV	42	42	16	16	21	21	25
% TOTAL	6%	6%	1%	1%	1%	1%	1%
TOTAL NETWORK*	**61**	**81**	**763**	**703**	**748**	**710**	**660**
% TOTAL	9%	11%	53%	43%	43%	41%	39%
SUPERSTATIONS							
WGN	—	—	0	25	25	30	30
WTBS	75	75	55	25	20	29	30
TOTAL SUPERSTATIONS	**75**	**75**	**55**	**50**	**45**	**59**	**60**
% TOTAL	11%	10%	4%	3%	3%	3%	4%
CABLE							
LOCAL	563	604	634	814	885	919	937
% TOTAL	81%	79%	44%	50%	51%	53%	55%
NATIONAL	0	0	0	53	51	51	50
% TOTAL	—	--	---	3%	3%	3%	3%
TOTAL CABLE*	563	604	**634**	**867**	**936**	**970**	**987**
TOTAL GAMES	**699**	**760**	**1452**	**1620**	**1729**	**1739**	**1707**

Source: Media Sports Business, PKA, October 1987 and April 1991.

*Total NBA Local Network Coverage not available for 86-87 and 87-88 seasons.

Note: Local network coverage excludes local coverage by WGN & WTBS